

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of San Marcos for an order authorizing construction to contract a Class I Bikeway within the North County Transit District (NCTD) right-of-way in the City of San Marcos in the County of San Diego, referred to as the INLAND RAIL TRAIL PROJECT (PHASE 1B).

Application 02-10-009
(Filed October 7, 2002)
(Amendment Filed March 21, 2003)
(Second Amendment Filed October 1, 2004)

O P I N I O N**Summary**

This decision grants the City of San Marcos' request for authority to construct, as part of its Inland Rail Trail Project, a Class I Bikeway, three new at-grade bikeway-rail crossings and modify two existing at-grade highway-rail crossings of the North County Transit District's railroad right-of-way in the City of San Marcos, San Diego County.

Discussion

The City of San Marcos (City), as the lead representative for a group of cities in northern San Diego County, proposes to construct a Class I Bikeway facility for cycling, jogging and other non-motorized recreational uses. The ultimate project will construct, in multiple phases, bikeway facilities the entire distance between the cities of Escondido and Oceanside. The proposed bikeway will link other bicycle routes in north San Diego County and provide an

alternative mode of transportation to the automobile within the State Route (SR-) 78 corridor.

The Class I Bikeway facility is named the Inland Rail Trail (IRT) Project. The segment of the IRT Project within the City limits is designated as Phase 1B. City proposes to construct Phase 1B of the IRT Project within the North County Transit District (NCTD) railroad right-of-way (ROW). Phase 1B of the IRT Project will cross NCTD's ROW at four at-grade locations resulting in the construction of three new at-grade bikeway-rail crossings (bikeway crossings) and the modification of two existing at-grade highway-rail crossings (highway crossings).

City will bear sole responsibility for the design, construction, operation, and maintenance for the IRT and three proposed bikeway crossings. Existing maintenance agreements are in effect for the two existing highway crossings.

The construction of Phase 1B will extend for approximately 4.0 miles, adjacent Mission Road, from the intersection of Pacific Street/Mission Road east to the intersection of Rancheros Drive/Mission Road. Except for occasional maintenance vehicles, the IRT will be strictly for pedestrian and bicycle access.

The IRT will generally consist of a paved path of width eight to ten feet and two-foot unpaved shoulders on either side, allowing four to five feet of pavement in each direction of travel. The proposed IRT in Phase 1B will travel predominantly on the northern side of the NCTD tracks. Between Pacific Street and San Marcos Blvd the IRT will generally reside adjacent to the existing southerly curb line of Mission Road, north of the tracks and bound by a chain link fence. Between San Marcos Blvd and Rancheros Drive, the IRT will generally reside south of the tracks within the NCTD ROW and utility easements bound by a chain link fence on both sides. Since this segment of the IRT will

generally not lie adjacent to illuminated city streets, safety street lighting will be provided, especially at the three proposed bikeway crossings lying within this segment. A six-foot high chain link fence will be constructed in order to provide a continuous physical barrier between the IRT and the tracks. In all sections where the edge of the IRT is 10 feet from the centerline of the tracks, baffling treatment will be added to the chain link fence to mitigate issues related to dust, debris and noise. The average distance from the centerline of the tracks to the edge of the IRT pavement will be greater than 20 feet. The minimum distance from the centerline of the tracks to the edge of the IRT pavement will be 12 feet and to the edge of the unpaved shoulder will be 10 feet. Typical sections of locations where the edge of the IRT pavement is 12 feet from the track centerline are included in the plans attached to the Application.

The IRT Project has been designed in coordination with NCTD's planned SPRINTER commuter rail service. Approximately 64 SPRINTER passenger trains per day, traveling at a maximum speed of 55 miles per hour (mph), are planned based on a 30-minute operating headway between the hours of 4 A.M. and 10 P.M. The existing highway crossings at San Marcos Boulevard, CPUC Crossing No. 106E-116.49 and Rancheros Drive, CPUC Crossing No. 106E-118.79 will be utilized for both day-time SPRINTER commuter rail service and existing night-time BNSF Railway Company (BNSF) freight service. BNSF will not be allowed to operate concurrently with SPRINTER service due to the temporal separation requirements stipulated by the Federal Railroad Administration (FRA) in its Approval of NCTD's Petition for Approval of Shared Use and Waiver of FRA regulations, (FRA Docket No. FRA 2002-11809, page 2, paragraph 3). BNSF freight service will operate during non-revenue SPRINTER service hours with approximately three trains per week at speeds of approximately 30

mph. Tracks at the three proposed bikeway crossings, CPUC Crossings No. 106F-16.73-D (Valpreda Road), No. 106F-17.00-D and No. 106F-17.20-D are located on a freight railroad bypass track and will only be utilized for night-time BNSF freight service of approximately three trains per week at speeds of approximately 30 mph.

At the three proposed bikeway crossings, the IRT will turn to cross the tracks at a right angle. Two Standard No. 10 (flashing light signals, as described in Commission General Order (GO) 75-C) warning devices, modified with two pairs of flashing light signals, will be constructed at each bikeway crossing. In addition, “RXR” pavement markings and “RXR” advance warning signs (W10-1), in conformance with the Manual on Uniform Traffic Control Devices (MUTCD), will be installed on the IRT approaches to the proposed bikeway crossings. Safety street lighting will also be installed at all three proposed bikeway crossings.

The existing highway crossing at San Marcos Boulevard, CPUC Crossing No. 106E-116.49, will not require modification to the existing warning devices. There is an adjacent signalized intersection at Mission Road and San Marcos Boulevard, just north of the crossing. The IRT travels east along the northern side of the tracks adjacent to Mission Road and will not cross the tracks at this location. The IRT will cross San Marcos Boulevard along the crosswalk and continue east along the northern side of the tracks. However, “in-pavement” roadway lights will be added to provide additional advance warning for vehicular traffic of crossing pedestrians and bicyclists at the “free-right” turn from northbound San Marcos Boulevard to eastbound Mission Road. In addition, two Light-Emitting Diode (LED) blank-out Pedestrian Crossing signs (W11A-2, per MUTCD) will be installed as additional warning to vehicular traffic

approaching the highway crossing. The “in-pavement” roadway lights and the LED blank-out Pedestrian Crossing signs will be activated by a pushbutton assembly.

The existing highway crossing at Rancheros Drive, CPUC Crossing No. 106E-118.79, will require minor modifications. There is an adjacent signalized intersection at Mission Road and Rancheros Drive, just north of the crossing. The existing intersection signalization will not be modified. The IRT travels southeast along the southern side of the tracks, then turns to cross the tracks at a right angle just west of and immediately adjacent to the existing Rancheros Drive highway crossing. The existing highway crossing surface will be extended west to accommodate the IRT. One new Standard No. 10 warning device, modified with two pairs of flashing light signals, will be installed south of the tracks for pedestrians and bicyclists using the IRT, supplementing the existing automatic warning devices at the highway crossing. The existing Standard No. 9 (automatic gate type signal as defined in GO 75-C) warning device, located north of the tracks, will receive an additional pair of flashing light signals aimed south across the IRT crossing.

The table in Appendix A attached to this order lists each bikeway and highway crossing, the corresponding identifying CPUC crossing number, and a summary of the proposed work and required warning devices for each crossing.

The bikeway and highway crossings discussed herein will be constructed as indicated in the design plans attached to the Application. All construction will be in conformance with applicable Commission GOs, including GO 26-D, 72-B, and 75-C.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA, as amended in 1982), as stated in

Public Resources Code Section 21000 et seq. On October 13, 1999, the City filed a Notice of Determination (NOD) with the San Diego County Clerk. The NOD found that “the project will not have a significant effect on the environment.” The City issued a Mitigated Negative Declaration (MND) for this project pursuant to the provisions of CEQA. Mitigation measures were a condition of project approval. Copies of the NOD and MND are included in the Application and in Appendix C attached to this order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency’s Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission has reviewed the lead agency’s environmental documents, and we find them adequate for our decision-making purposes. Safety, transportation and noise are within the scope of the Commission’s permitting process. City’s NOD and MND did not identify significant environmental impacts related to safety, transportation and noise. The City reasonably concluded that the proposed IRT Project will not have a significant effect on the environment in the areas of safety, transportation and noise. Accordingly, we adopt the City’s NOD and MND for purposes of our approval.

City filed its Application October 7, 2002. The Commission’s Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) reviewed the Application and provided comments on the designs of the

proposed crossings. City filed an Amendment to the Application on March 21, 2003 detailing changes to the designs of the proposed crossings. Specifically, chain link fencing was extended at the three proposed bikeway crossings and at the existing Rancheros Drive highway crossing. In addition, at locations where the IRT is designed to be 10 feet from the centerline of the tracks, the fence was modified by the addition of wind baffling plastic fence slats to restrict wind and dust produced by moving trains.

Following further review and discussions between RCES, City and NCTD, City filed a Supplement to the Application on August 15, 2003 detailing minor modifications to the proposed crossings. Specifically, proposed Stop signs (R1, per MUTCD) were removed from the three proposed bikeway crossings and the existing Rancheros Drive highway crossing to avoid confusion with the use of the proposed Standard No. 9 warning devices.

City filed a second Supplement to the Application on February 23, 2004, as a result of additional discussions with RCES and NCTD. The second Supplement detailed necessary modifications at the Rancheros Drive highway crossing in order to comply with the Americans with Disabilities Act requirements. Specifically, construction of a ramp and an associated retaining wall was necessary.

On October 1, 2004 City filed a second Amendment to the Application. The Amendment was filed due to further discussions between RCES, NCTD and City. City proposed the inclusion of one additional existing highway crossing location into the scope of the Application. City proposed to add in-pavement roadway lighting to the existing highway crossing at San Marcos Boulevard. In addition, Standard No. 10 warning devices, modified with two pairs of flashing light signals, were to replace the Standard No. 9 warning devices originally

proposed for each of the three bikeway crossings and at the existing Rancheros Drive highway crossing. The change to Standard No. 10 warning devices, modified with two pairs of flashing light signals, was made due to concerns over potentially trapping pedestrians and bicyclists between lowered gates at the crossings.

RCES has inspected the site of the proposed and existing crossings. After reviewing the need for and the safety of the proposed crossings and the modifications to the existing crossings, RCES recommends that the Commission grant City's request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across railroad tracks. A vicinity map showing the location of the IRT project is included in Appendix B attached to this order.

Categorization and Need for Hearings

In Resolution ALJ 176-3098, dated October 24, 2002, and published in the Commission Daily Calendar on October 25, 2002, the Commission preliminarily categorized Application (A.) 02-10-009 as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3098.

Waiver of Comment Period

This Application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2),

we waive the otherwise applicable 30-day period for public review and comment.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published Notice of A.02-10-009 in the Commission Daily Calendar on October 25, 2002. There are no unresolved matters or protests; a public hearing is not necessary.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct, as part of its IRT Project, a Class I Bikeway, three new bikeway crossings and modify two existing highway crossings of NCTD's railroad ROW in the City of San Marcos, San Diego County.
3. Public convenience and necessity require construction of the proposed crossings of NCTD's railroad ROW. City's IRT Project will provide an alternate mode of transportation along the SR-78 corridor.
4. Public safety requires the installation of chain link fencing between the IRT and the NCTD tracks.
5. Public safety at the three proposed bikeway crossing locations requires the installation of two Standard No. 10 warning devices, modified with two pairs of flashing light signals, at each of the authorized bikeway crossings, as described in the Application and this order.
6. Public safety at the existing Rancheros Drive highway crossing requires the installation of one Standard No. 10 warning device, modified with two pairs of flashing light signals, south of the tracks and installation of one additional pair of flashing light signals on the existing Standard No. 9 warning device located north of the tracks, as described in the Application and this order.

7. Public safety at the existing San Marcos Boulevard highway crossing requires installation of “in-pavement” roadway lights at the “free-right” turn from northbound San Marcos Boulevard to eastbound Mission Road, and the installation of two LED blank-out Pedestrian Crossing signs to provide additional advance warning for vehicular traffic of crossing pedestrians and bicyclists.

8. City is the lead agency for this project under CEQA, as amended.

9. City filed an NOD with the San Diego County Clerk, prepared an MND and found that “the project will not have a significant effect on the environment.”

10. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's NOD and MND. We find these documents to be adequate for our decision-making purposes.

11. Safety, transportation and noise are within the scope of the Commission’s permitting process.

12. For the approved project, the lead agency did not identify environmental impacts related to safety, transportation and noise.

Conclusions of Law

1. The Application is uncontested and a public hearing is not necessary.
2. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of San Marcos (City) is authorized to construct three at-grade bikeway-rail crossings along the San Diego Northern Railway right-of-way of the San Diego North County Transportation District (NCTD), at mileposts 16.73

(Valpreda Road), 17.00 and 17.20, and is authorized to modify the warning devices at the existing at-grade highway-rail crossing at San Marcos Boulevard and at the existing at-grade highway-rail crossing at Rancheros Drive, all within the City of San Marcos, San Diego County, at the locations and substantially as described in and as shown by plans attached to the Application and as described and identified in Appendix A attached to this order.

2. The City shall install chain link fencing to separate the Inland Rail Trail Class I Bikeway from the NCTD tracks.

3. The City shall install Standard No. 10 (flashing light signals, as described in Commission General Order (GO) 75-C), warning devices, modified with two pairs of flashing light signals, at each of the three authorized bikeway-rail crossings, as described in the Application and Appendix A attached to this order.

4. The City shall install one Standard No. 10 warning device, modified with two pairs of flashing light signals, south of the tracks and install one additional pair of flashing light signals on the existing Standard No. 9 (automatic gate type signal, as described in Commission GO 75-C) warning device located north of the tracks at the existing Rancheros Drive highway-rail crossing, as described in the Application and Appendix A attached to this order.

5. The City shall install “in-pavement” roadway lights to provide additional advance warning for vehicular traffic of crossing pedestrians and bicyclists at the existing San Marcos Boulevard highway-rail crossing at the “free-right” turn from northbound San Marcos Boulevard to eastbound Mission Road. In addition, City shall install two Light-Emitting Diode blank-out Pedestrian Crossing signs (WIIA-2, per Manual on Uniform Traffic Control Devices) as additional warning to vehicular traffic approaching the highway-rail crossing.

6. City and NCTD shall comply with all applicable Commission General Orders and the Manual on Uniform Traffic Control Devices as amended by the California Supplement.

7. The City and NCTD (parties) shall bear construction and maintenance costs in accordance with an agreement between the parties. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

8. Within 30 days after completion of the work under this order, NCTD shall notify Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

9. This authorization shall expire if not exercised within two years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

10. The Commission grants the Application as set forth above.

11. Application 02-10-009 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

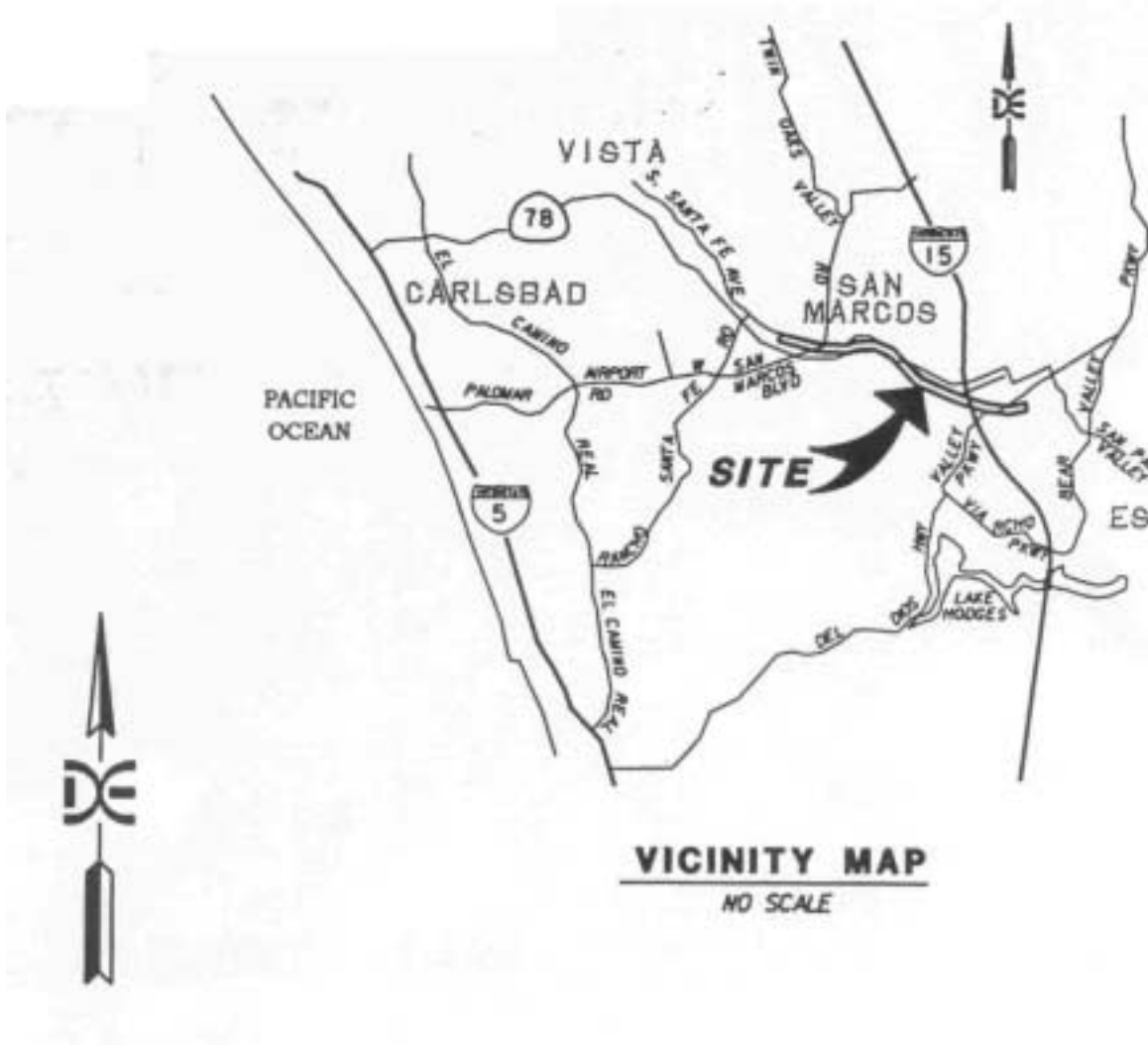
APPENDIX A**SUMMARY OF AT-GRADE HIGHWAY AND BIKEWAY RAIL CROSSINGS**

Roadway Name	CPUC Crossing No.	Type of Rail Service	Proposed Work	Required Warning Devices
San Marcos Blvd.	106E-116.49	Freight & Commuter	Install in-pavement Roadway Lights and LED Blank-out Pedestrian sign at existing crossing.	Existing warning devices remain: 2 - Standard No. 9 automatic gate type signals, 3 - Standard No. 9A automatic gate type signals with Cantilever.
Valpreda Rd.	106F-16.73-D	Freight Only	Construct new crossing and install automatic warning signals.	2 – Standard No. 10 Flashing Light Signals modified with two pairs of flashing lights.
Bikeway Crossing No. 1	106F-17.00-D	Freight Only	Construct new crossing and install automatic warning signals.	2 – Standard No. 10 Flashing Light Signals modified with two pairs of flashing lights.
Bikeway Crossing No. 2	106F-17.20-D	Freight Only	Construct new crossing and install automatic warning signals.	2 – Standard No. 10 Flashing Light Signals modified with two pairs of flashing lights.

APPENDIX A

Rancheros Dr.	106E-118.79	Freight & Commuter	Modify existing crossing by extending crossing surface. Install one automatic warning signal and modify one existing automatic warning signal.	One Standard No. 10 Flashing Light Signal modified with two pairs of flashing lights. One additional pair of flashing lights mounted on existing Standard No. 9 automatic gate type signal.
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APPENDIX B
VICINITY MAP



APPENDIX C

ENVIRONMENTAL DOCUMENTS

OCT 13 1999
BY VC
CITY

CITY OF SAN MARCOS
NOTICE OF DETERMINATION

TO: Office of Planning & Research FROM: Planning Division
1400 Tenth Street, Room 121 City of San Marcos
Sacramento, CA 95814 1 Civic Center Drive
San Marcos, CA 92069

X Gregory J. Smith
Recorder/County Clerk
P.O. Box 1750
San Diego, CA 92112-4147

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

ND 99-518: Oceanside-Escondido Bikeway Project

Project Title _____

City of San Marcos 619-744-1050

State Clearinghouse Number _____ Lead Agency _____ Phone Number _____

(Submitted to Clearinghouse Contact Person)

Along the North County Transit District rail line from Oceanside to Escondido San Diego

Project Location (include County) _____

Construction of a bike path 16' wide

Project Description _____

This is to advise that the City of San Marcos has approved the above described project and made the following determinations regarding the above described project.

1. The project will x will not, have a significant effect on the environment.
2. — An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. x A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
4. Mitigation measures x were, — were not, made a condition of the approval of the project.
5. A statement of Overriding Considerations — was, x was not, adopted for this project.
6. Findings — were x were not, made pursuant to the provisions of CEQA.

This is to certify that the Negative Declaration with comments and response is available to the general public at 1 Civic Center Drive, San Marcos, CA 92069

Date: 10/6/99

[Signature]
Signature
Planning Division Director
(Title)

FILED IN THE OFFICE OF THE COUNTY CLERK
SAN DIEGO COUNTY ON OCT 13 1999
POSTED OCT 13 1999 REMOVED JAN 12 2000
RETURNED TO AGENCY ON NOV 12 1999
DEPUTY VC

APPENDIX C
ENVIRONMENTAL DOCUMENTS

1153-420
A.01 10 027

FINAL
MITIGATED NEGATIVE DECLARATION
OCEANSIDE-ESCONDIDO BIKEWAY PROJECT

Prepared for:

CITY OF SAN MARCOS
*(As lead agency representing the Cities of Escondido, Vista,
Oceanside and the County of San Diego)*
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Tel.: (760) 744-1050

Environmental Consultant:

DUDEK
& ASSOCIATES, INC.
Professional Teams for Complex Projects
605 Third Street
Encinitas, California 92024
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Tel.: (760) 942-5147

FILED
PUBLIC UTILITIES COMMISSION
OCT - 9 01
SAN FRANCISCO OFFICE

December 1999